
OLR Bill Analysis

sSB 1075

AN ACT CONCERNING NONWAGE PAYMENTS IN THE CONSTRUCTION INDUSTRY AND DAMAGE AWARDS IN WAGE CLAIM CASES.

SUMMARY:

This bill creates a notice requirement for a construction business (contractor) that pays another construction business (subcontractor) more than \$600 in a calendar year for anything other than wages, including payments for materials and equipment. It requires the contractor to provide the revenue services commissioner and subcontractor, on a form prescribed by the commissioner, with (1) the contractor's name and address; (2) the subcontractor's name, address, and tax identification number; (3) the amount of individual and cumulative payments from the contractor to the subcontractor in the calendar year; and (4) any other information the commissioner requires.

The bill requires the contractor to file the notice with the revenue services commissioner by January 31st of the year following the year it paid the subcontractor. The revenue services commissioner must give the notice to the labor commissioner by the next January 1st. The revenue services commissioner can share information in the notice with any other state or federal law enforcement agency.

Under the bill, contractors that fail to provide the notice can be fined up to \$250 per failure. It is unclear if the contractor must file a notice for each payment greater than \$600 or if it must file one annual notice for each subcontractor it cumulatively paid more than \$600 in the calendar year. It is also unclear who imposes the fine; presumably it is the revenue services commissioner.

The bill also requires, rather than allows, a court to award double damages, costs, and attorney's fees when it finds that an employer

failed to pay an employee's wages, benefits, or arbitration award, unless the employer proves a good faith basis for believing that its underpayment complied with the law. It is unclear if the employee could recover anything in a civil suit in which the employer proved such a good faith basis for the underpayment. Existing law also allows the labor commissioner to collect the unpaid wages and payments or bring a civil suit on the employee's behalf.

EFFECTIVE DATE: October 1, 2013

CONTRACTORS AND SUBCONTRACTORS

The bill applies to business entities that erect, excavate, install, alter, add, modify, repair, improve, demolish, destroy, dismantle, or remove all or any part of a building, structure, dock, wharf, surface, or subsurface construction on or attached to any real property. A business that performs these services (the contractor) must meet the bill's notice requirements if it pays another business (the subcontractor) more than \$600 in a calendar year to perform these services.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 7 Nay 3 (03/19/2013)